

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JESSY ALLEN NELSON,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-06-0717-HE
)	
STEPHINE BURKS, et al.,)	
)	
Defendants.)	

ORDER


This case is before the Court on the Report and Recommendation of Magistrate Judge Bana Roberts. [Doc. #9]. Plaintiff, a state pretrial detainee appearing pro se, brings this action pursuant to 42 U.S.C. § 1983. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Judge Roberts for review. On September 29, 2006, Judge Roberts issued her Report and Recommendation, recommending that the case be dismissed upon filing for failure to demonstrate exhaustion of administrative remedies.

Plaintiff has not filed an objection to the Report and Recommendation. Therefore, further review of the issues contained therein is waived. United States v. One Parcel of Real Prop., 73 F.3d 1057, 1059-60 (10th Cir. 1996). See 28 U.S.C. § 636(b)(1)(c); LCvR72.1(a). For this reason, and for the reasons contained in the Report and Recommendation, the court concludes that the case should be dismissed for failure to state a claim based on plaintiff's failure to plead and provide evidence of his exhaustion of administrative remedies.

Accordingly, the Report and Recommendation is **ADOPTED** in its entirety. Plaintiff's case is **DISMISSED** without prejudice.

IT IS SO ORDERED.

Dated this 24th day of October, 2006.



JOE HEATON
UNITED STATES DISTRICT JUDGE